

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

US MEDICAL NETWORKS, LLC,

§

*Plaintiff,*

§

v.

§

BIOFIRE DIAGNOSTICS, LLC,

§

*Defendant.*

§

Civil Action No. 3:19-cv-01848-E

**JOINT SUBMISSION OF PROPOSED SCHEDULING ORDER**

Plaintiff US Medical Networks, LLC (“USMN”) and, subject to the objections stated in its Statement Regarding Setting a Trial Date (Doc. No. 269), Defendant BioFire Diagnostics, LLC (“BioFire”) have – as directed by the Court during a recent conference – conferred about a new Scheduling Order for this case and reached an agreement and now jointly request that the Court approve the Scheduling Order attached hereto as Exhibit “A.”

Respectfully submitted,

/s/ Michael K. Hurst

Michael K. Hurst  
State Bar No.10316310

mhurst@lynllp.com

Sara Hollan Chelette

State Bar No. 24046091  
schelette@lynllp.com

Yaman Desai

State Bar No. 24101695  
ydesai@lynllp.com

LYNN PINKER HURST &  
SCHWEGMANN, LLP

2100 Ross Avenue, Suite 2700

Dallas, Texas 75201

Telephone: (214) 981-3800

Facsimile: (214) 981-3839

Julie Pettit  
State Bar No. 24065971  
[jpettit@pettitfirm.com](mailto:jpettit@pettitfirm.com)  
THE PETTIT LAW FIRM  
2101 Cedar Springs, Suite 1540  
Dallas, Texas 75201  
Telephone: (214) 329-0151  
Facsimile: (214) 329-4076

Robert M. Manley  
State Bar No. 00787955  
[rmanley@mckoolsmith.com](mailto:rmanley@mckoolsmith.com)  
McKool Smith  
300 Crescent Court, Suite 1500  
Dallas, Texas 75201

ATTORNEYS FOR PLAINTIFF  
US MEDICAL NETWORKS, LLC

*/s/ Robert W. Kantner*  
Robert W. Kantner  
Texas State Bar No. 11093900  
GLAST, PHILLIPS & MURRAY, P.C.  
14801 Quorum Drive, Suite 500  
Dallas, TX 75254  
Telephone: +1.972.419.8387  
Facsimile: +1.972.419.8329  
Email: [rkantner@gpm-law.com](mailto:rkantner@gpm-law.com)

Aaron D. Charfoos (*pro hac vice*)  
PAUL HASTINGS  
71 S. Wacker Drive  
Forty-fifth Floor  
Chicago, IL 60606  
Telephone: +1.312.499.6010  
Email: [aaroncharfoos@paulhastings.com](mailto:aaroncharfoos@paulhastings.com)

ATTORNEYS FOR DEFENDANT  
BIOFIRE DIAGNOSTICS, LLC

CERTIFICATE OF CONFERENCE

We hereby certify that we have conferred about and agreed to the attached Scheduling Order.

/s/ Michael K. Hurst  
Michael K. Hurst

/s/ Robert W. Kantner  
Robert W. Kantner

**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2021, a true and correct copy of the foregoing instrument was served on the following counsel of record via ECF.

Julie Pettit  
THE PETTIT LAW FIRM  
2101 Cedar Springs Road, Suite 1540  
Dallas, Texas 75201  
[jpettit@pettitfirm.com](mailto:jpettit@pettitfirm.com)

Michael K. Hurst  
Sara Hollan Chelette  
LYNN PINKER COX & HURST, LLP  
2100 Ross Avenue, Suite 2700  
Dallas, Texas 75201  
[mhurst@lynnlpp.com](mailto:mhurst@lynnlpp.com)  
[schelette@lynnlpp.com](mailto:schelette@lynnlpp.com)

Robert M. Manley  
McKOOL SMITH, P.C.  
300 Crescent Court  
Suite 1500  
Dallas, TX 75201  
[rmanley@mckoolsmith.com](mailto:rmanley@mckoolsmith.com)

*Attorneys for Plaintiff US Medical Networks, LLC*

/s/ Robert W. Kantner  
Robert W. Kantner

## **EXHIBIT “A”**

**IN THE UNITED STATES COURT  
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**US MEDICAL NETWORKS, LLC,**

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**v.**

**BIOFIRE DIAGNOSTICS, LLC,**

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**Civil Action No. 3:19-cv-01848-E**

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**SCHEDULING ORDER**

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The Court hereby withdraws its Scheduling Order, dated September 16, 2019, and ORDERS as follows:

1. This case is set for trial on January 11, 2022. The Court will conduct a pre-trial conference the day before starting at \_\_\_\_\_ a.m./p.m.
2. USMN shall answer BioFire's counterclaims by October 8, 2021.
3. The Court will entertain further briefing from the parties in connection with BioFire's request that the Court reconsider its summary judgment order (Doc. No. 267) briefed in succession as if filed as a motion for reconsideration. Specifically, in connection with such motion for reconsideration by BioFire, further the parties will brief the following issues:

- a. Whether there is a conflict between Texas law and Utah law and, if so, whether Texas law or Utah law governs the issues with respect to which USMN raised these issues in its summary judgment briefs; and
- b. Whether the Limitation of Liability provision of the Amended LSP Agreement between the parties bars, caps or otherwise limits any of USMN's claims for

damages and is enforceable.

4. Briefing on the subjects listed in paragraph 3 shall be due as follows:
  - a. BioFire shall file a single opening brief addressing the issues identified in subparagraphs 3(a) and (b) above by October 12, 2021;
  - b. USMN shall file its responsive brief by October 26, 2021; and
  - c. BioFire shall file its reply brief by November 5, 2021.
5. The length of the briefs provided for in paragraphs 3 and 4 above shall be as follows:
  - a. BioFire's opening brief shall be no longer than fifteen (15) pages;
  - b. USMN's responsive brief shall be no longer than fifteen (15) pages; and
  - c. BioFire's reply brief shall be no longer than ten (10) pages.
6. USMN may seek leave to file a sur-reply of up to ten (10) pages if it deems necessary to clarify an argument or authority in BioFire's Reply Brief. BioFire will likely oppose such motion for leave.
7. BioFire shall serve objections to USMN's request for supplemental production by October 15, 2021. Subject thereto, BioFire shall complete its supplemental document production by October 29, 2021.
8. USMN shall serve objections to BioFire's requests for supplemental production by October 15, 2021. Subject thereto, USMN shall complete its supplemental production by October 29, 2021.
9. USMN shall serve any final updates of its experts' opinions by November 19, 2021. As stated by USMN's counsel during a conference on September 23, 2021, BioFire shall not be required to serve updated opinions of its experts.
10. The four remaining depositions – BioFire, McKesson, Taylor Raetz and Terry McBride – shall be completed by November 19, 2021.

11. The parties shall file all pre-trial materials by December 6, 2021. Pre-trial materials shall include the following:

- a. pre-trial order pursuant to LR 16.4;
- b. exhibit lists, witness lists, and deposition designations pursuant to LR 26.2 and Rule 26(a)(3); witness lists should include a brief summary of the substance of anticipated testimony (not just a designation of subject area) and an estimate of the length of direct examination; exhibit lists must include any materials to be shown to the jury, including demonstrative aids; the parties shall comply with Rule 26(a)(3) regarding objections;
- c. proposed jury charge pursuant to LR 51.1 or proposed findings of fact and conclusions of law pursuant to LR 52.1; any objections to the proposed jury charge shall be filed within 14 days thereafter; objections not so disclosed are waived unless excused by the Court for good cause;
- d. motions in limine; matters that are not case-specific are strongly discouraged; and
- e. requested voir dire questions.

12. BioFire may supplement its pre-trial filings to address new updated opinions by USMN damages experts until December 10, 2021.

13. The parties shall exchange attorney engagement agreements and redacted time records by December 13, 2021.

14. Objections to the other side's pre-trial materials and counter-designations shall be filed by December 20, 2021.

Signed: October \_\_\_\_\_, 2021.

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ADA E. BROWN  
UNITED STATES DISTRICT JUDGE